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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,830	08/31/2001	Hisashi Takayama	TAKAYAMA 4	9491
1444 7590 10/16/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER GRAHAM, CLEMENT B	
			ART UNIT 3696	PAPER NUMBER
			MAIL DATE 10/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/831,830

Applicant(s)

TAKAYAMA ET AL.

Examiner

CLEMENT B. GRAHAM

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/10/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: 10/12/07, 5/25/05, 4/30/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 58-66 in the reply filed on June 10, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(x)).
2. Claims 67-82 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on June 10, 2008
3. Claims 58-66 remained pending in this Application.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless –
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
5. Claims 58-66, are rejected under 35 U.S.C. 102(e) as being anticipated by Takayama U.S. Pub: 20020194121.

As per claim 58, Takayama discloses a communication terminal comprising: a first wireless communication section operable to receive, from an other terminal within a distance for communicating with said communication terminal, information for starting communication with the other terminal (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462) a second wireless communication section operable to establish a communication session using said information (see column 7 lines 52-67 and column 8 lines 1-53 and column 9 lines 8-35 and column 3 lines 4-28).

As per claim 59, Takayama discloses wherein said information for starting communication with said

other terminal is identification information (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 60, Takayama discloses further comprising:
an authentication section operable to authenticate with said other terminal using said identification information (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462) wherein said second wireless communication section is operable to establish a communication session using said identification information when said authentication section authenticates with said other terminal successfully (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 61, Takayama discloses wherein said second wireless communication section has directivity (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 62, Takayama wherein said first wireless communication section is further operable to receive a message indicating a communication method from said other terminal (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 63, Takayama discloses a communication terminal comprising: a first wireless communication section operable to transmit, to an other terminal within a distance for communicating with said communication terminal, information for starting communication with the other terminal;
a second wireless communication section operable to establish a communication session using said information in response to a communication establishment request from said other terminal (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 64, Takayama discloses wherein said information is identification information (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 65, Takayama discloses further comprising:
an authentication section operable to authenticate with said other terminal using identification information in response to a communication establishment request from said other terminal (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462) wherein said second wireless communication section is operable to establish a communication session using said identification information when said authentication section authenticates with

said other terminal successfully (see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

As per claim 66, Takayama discloses wherein said second wireless communication section has directivity(see column 4 para 0060-0062 and column 5 para 0067 and column 2 para 0029 and column 25 para 0441 and column 26 para 0462).

CONCLUSION

RESPONSE TO ARGUMENTS

6. Applicant's arguments filed 6/10/08 has been fully considered but they are moot in view of new grounds of rejections.

7. Applicant's claims 58, 60, 62-63, 65, states "operable to authenticate " operable to establish" operable to receive "operable to transmit",

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See

also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLEMENT B. GRAHAM whose telephone number is (571)272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/

Primary Examiner, Art Unit 3692